**INFORMATION DISCLOSURE STATEMENT**

Appl. No. : 09/144,897  
Applicants : Mohamed K. Diab et al.  
Filed : September 1, 1998  
TC/A.U. : 3736  
Examiner : Eric F. Winakur

Title : SIGNAL PROCESSING  
APPARATUS

Docket No. : MASIMO.7CP1C4  
Customer No. : 20,995

**Certificate Of Mailing**

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on

June 14, 2005

(Date)

John M. Grover, Reg. No. 42,610

**MAIL STOP PETITION**

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application is an Information Disclosure Statement by Applicant (PTO/SB/08 equivalent) listing 256 references to be considered by the Examiner.

This Information Disclosure Statement is being filed before the receipt of a first Office Action on the merits, and presumably no fee is required. If a first Office Action on the merits was mailed before the mailing date of this Statement, the Commissioner is authorized to charge the fee set forth in 37 C.F.R. § 1.17(p) to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 14, 2005

By:

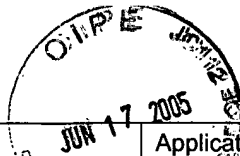
John M. Grover

Registration No. 42,610

Attorney of Record

Customer No. 20,995

(949) 760-0404

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

|                      |                   |
|----------------------|-------------------|
| Application No.      | 09/144,897        |
| Filing Date          | September 1, 1998 |
| First Named Inventor | Mohamed K. Diab   |
| Art Unit             | 3736              |
| Examiner             | Eric F. Winakur   |
| Attorney Docket No.  | MASIMO.7CP1C4     |

(Multiple sheets used when necessary)

SHEET 1 OF 14

**U.S. PATENT DOCUMENTS**

| Examiner Initials | Cite No. | Document Number<br>Number - Kind Code (if known)<br>Example: 1,234,567 B1 | Publication Date<br>MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where<br>Relevant Passages or Relevant<br>Figures Appear |
|-------------------|----------|---|--------------------------------|-------------------------------|--|
|                   | 1        | Re. 35,122  | 12/19/1995                     | Corenman et al.               |  |
|                   | 2        | 3,638,640   | 02/01/1992                     | Shaw                          |  |
|                   | 3        | 4,038,536   | 07/26/1977                     | Feintuch                      |  |
|                   | 4        | 4,157,708   | 06/12/1979                     | Imura                         |  |
|                   | 5        | 4,458,691   | 07/10/1984                     | Netravali                     |  |
|                   | 6        | 4,537,200   | 08/27/1995                     | Widrow                        |  |
|                   | 7        | 4,582,068   | 04/15/1986                     | Phillipps et al.              |  |
|                   | 8        | B1 4,653,498  | 04/18/1989                     | New, Jr. et al.               |  |
|                   | 9        | 4,653,498   | 03/31/1987                     | New, Jr. et al.               |  |
|                   | 10       | 4,667,680   | 05/26/1987                     | Ellis                         |  |
|                   | 11       | 4,714,341   | 12/22/1987                     | Hamaguri et al.               |  |
|                   | 12       | 4,751,931   | 06/21/1988                     | Briller et al.                |  |
|                   | 13       | 4,793,361   | 12/27/1988                     | DuFault                       |  |
|                   | 14       | 4,799,486   | 01/24/1989                     | DuFault                       |  |
|                   | 15       | 4,799,493   | 01/24/1989                     | DuFault                       |  |
|                   | 16       | 4,800,885   | 01/31/1989                     | Johnson                       |  |
|                   | 17       | 4,802,486   | 02/07/1989                     | Goodman et al.                |  |
|                   | 18       | 4,863,265   | 09/05/1989                     | Flower et al.                 |  |
|                   | 19       | 4,867,571   | 09/19/1989                     | Frick et al.                  |  |
|                   | 20       | 4,869,254   | 09/26/1989                     | Stone et al.                  |  |
|                   | 21       | 4,883,353   | 11/28/1989                     | Hausman et al.                |  |
|                   | 22       | 4,911,167   | 03/27/1990                     | Corenman et al.               |  |
|                   | 23       | 4,928,692   | 05/29/1990                     | Goodman et al.                |  |
|                   | 24       | 4,934,372   | 6/19/1990                      | Corenman et al.               |  |
|                   | 25       | 4,949,710   | 08/21/1990                     | Dorsett et al.                |  |
|                   | 26       | 4,951,680   | 08/28/1990                     | Kirk et al.                   |  |
|                   | 27       | 4,955,379   | 09/11/1990                     | Hall                          |  |
|                   | 28       | 4,960,126   | 10/02/1990                     | Conlon et al.                 |  |
|                   | 29       | 4,967,571   | 11/06/1960                     | Sporri                        |  |

Examiner Signature

Date Considered

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|  | Art Unit             | 3736              |
|  | Examiner             | Eric F. Winakur   |
| SHEET 2 OF 14  | Attorney Docket No.  | MASIMO.7CP1C4     |

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|-------------------|----------|---|--------------------------------|-------------------------------|--|
|                   | 30       | 5,036,857   | 08/06/1991                     | Semmlow et al.                |  |
|                   | 31       | 5,040,201   | 08/13/1991                     | Slump                         |  |
|                   | 32       | 5,041,187   | 08/20/1991                     | Hink et al.                   |  |
|                   | 33       | 5,054,495   | 10/08/1991                     | Uemura et al.                 |  |
|                   | 34       | 5,243,993   | 09/14/1993                     | Alexander et al.              |  |
|                   | 35       | 5,379,774   | 01/10/1995                     | Nishimura et al.              |  |
|                   | 36       | 5,494,032   | 02/27/1996                     | Robinson et al.               |  |
|                   | 37       | 5,853,364   | 12/29/1998                     | Baker, Jr. et al.             |  |
|                   | 38       | 6,083,172   | 07/04/2000                     | Baker, Jr. et al.             |  |
|                   | 39       | 6,411,833 B1  | 06/25/2002                     | Baker, Jr. et al.             |  |

### FOREIGN PATENT DOCUMENTS

| Examiner Initials | Cite No. | Foreign Patent Document<br>Country Code-Number-Kind Code<br>Example: JP 1234567 A1 | Publication Date<br>MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines<br>Where Relevant Passages or<br>Relevant Figures Appear | T <sup>1</sup> |
|-------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
|                   | 40       | EP 0 359 206 B1  | 03/29/1995                     | Kanda                         |  |                |
|                   | 41       | JP-A-63-171539   | 07/15/1988                     | (In Japanese)                 |  |                |
|                   | 42       | WO 92/15955  | 09/17/1992                     | Diab et al.                   |  |                |
|                   | 43       | WO 97/00041  | 01/03/1997                     | Yorkey                        |  |                |
|                   | 44       | WO 98/42249  | 10/01/1998                     | Baker et al.                  |  |                |
|                   | 45       | WO 98/43071  | 10/01/1998                     | Baker et al.                  |  |                |

### NON PATENT LITERATURE DOCUMENTS

| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T <sup>1</sup> |
|-------------------|----------|---|----------------|
|                   | 46       | U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:00-cv-06506-MRP-AJW.  |                |
|                   | 47       | U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:01-cv-07292-MRP-AJW.  |                |
|                   | 48       | U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:01-cv-07293-MRP-AJW.  |                |
|                   | 49       | Complaint for Patent Infringement of US. Patent Nos. 6,206,830 B1 and 6,157,850; Demand for Jury Trial, dated 7/6/01.   |                |

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| Examiner Signature   | Date Considered |
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|  | Art Unit             | 3736              |
| (Multiple sheets used when necessary)                    | Examiner             | Eric F. Winakur   |
| SHEET 3 OF 14  | Attorney Docket No.  | MASIMO.7CP1C4     |

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|-------------------|----------|---|----------------|
|                   | 50       | First Amended Complaint for Patent Infringement of U.S. Patent Nos. 6,206,830 B1, 6,157,850 and 6,263,222 B1; Demand for Jury Trial, dated 7/18/01.   |                |
|                   | 51       | Nellcor's and Mallinckrodt's Answer to First Amended Complaint, dated 8/20/01.  |                |
|                   | 52       | Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7292 MRP (AJWx), dated 5/31/02.  |                |
|                   | 53       | Masimo's Reply to Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo's First Amended Complaint in Case No. CV-01-7292 MRP (AJWx), dated 8/27/02.  |                |
|                   | 54       | Complaint for Patent Infringement of US. Patent Nos. 4,653,498, 5,078,136 and Re. 36,000, dated 11/17/99.   |                |
|                   | 55       | Defendant Masimo Corp.'s Answer and Counterclaims, dated 12/8/99.   |                |
|                   | 56       | Mallinckrodt's and Nellcor's Reply to Counterclaims of Masimo; Demand for Jury Trial, dated 12/28/99.   |                |
|                   | 57       | Mallinckrodt's and Nellcor's Amendment Complaint for Patent Infringement of U.S. Patent Nos. 4,653,498, 5,078,136, Re. 35,122 and Re. 36,000; Demand for Jury Trial, dated 1/24/00.   |                |
|                   | 58       | Defendant Masimo Corp.'s Amended Answer and Counterclaims, dated 2/7/00.  |                |
|                   | 59       | Nellcor's Reply to Amended Counterclaims of Masimo Corporation, dated 2/22/00.  |                |
|                   | 60       | Mallinckrodt's and Nellcor's Second Amended Complaint for Patent Infringement of U.S. Patent Nos. 4,621,643, 4,653,498, 4,700,708, 5,078,247, Re. 35,122 and Re. 36,000; Demand for Jury Trial, dated 10/13/00.   |                |
|                   | 61       | Masimo Corp.'s Answer to Plaintiffs' Second Amended Complaint and Counterclaims; Demand for Jury Trial, dated 11/2/00.  |                |
|                   | 62       | Mallinckrodt Inc.'s and Nellcor Puritan Bennett, Inc.'s Reply to Counterclaims of Masimo Corporation; Demand for Jury Trial, dated 12/1/00.   |                |
|                   | 63       | Nellcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo Corporation, dated 5/31/02.  |                |
|                   | 64       | Masimo's Reply to Nellcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo, dated 8/27/02.  |                |
|                   | 65       | Nellcor's Third Amended Complaint for Patent Infringement of U.S. Patent Nos. 4,621,643, 4,653,498, 4,700,708, 5,078,136, 5,807,247 and Re. 36,000; Demand for Jury Trial, dated 7/31/02.   |                |
|                   | 66       | Masimo's Answer to Counterclaims to Nellcor's Third Amended Complaint for Patent Infringement; Demand for Jury Trial, dated 8/27/02.  |                |
|                   | 67       | Complaint for Patent Infringement of U.S. Patent No. 5,490,505; Demand for Jury Trial, dated 10/8/99, entered 10/15/99.   |                |

Examiner Signature

Date Considered

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|  | Art Unit             | 3736              |
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|-------------------|----------|---|----------------|
|                   | 68       | Mallinckrodt's and Nellcor's Answer and Counterclaims, dated 11/1/99.   |                |
|                   | 69       | Plaintiff's Masimo Corp.'s Reply to Defendants' Counterclaims, dated 11/22/99.  |                |
|                   | 70       | Amended Complaint for Patent Infringement of U.S. Patent Nos. 5,490,505 and 6,036,642; Demand for Jury Trial, dated 4/5/00, entered 4/18/00.  |                |
|                   | 71       | Answer to First Amended Complaint and Amended Counterclaim; Demand for Jury Trial, dated 5/1/00.  |                |
|                   | 72       | Plaintiff Masimo Corp.'s Reply to Defendants' First Amended Counterclaims; Demand for Jury Trial, dated 5/18/00.  |                |
|                   | 73       | Nellcor's and Mallinckrodt's Amended and Supplemental Answer to Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7293-MRP (AJWx), dated 5/31/02.   |                |
|                   | 74       | Masimo's Reply to Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo's First Amended Complaint in Case No. -01-7293 MRP (AJWx), dated 8/27/02.  |                |
|                   | 75       | Memorandum of Decision re: Mallinckrodt and Nellcor's Motion for Summary Judgement of Invalidity of Claim 19 of U.S. Patent No. 5,490,505.  |                |
|                   | 76       | Minute Order 1) Granting Defendants' Motion for Summary Judgment of Non-Infringement of '642 Patent; 2) Denying Plaintiff's Motion for Preliminary Injunction; 3) Granting Plaintiff's Ex Parte Application to Strike Defendants' Supplemental Declaration, dated 10/4/00, entered 10/6/00. |                |
|                   | 77       | Defendant's Mallinckrodt's and Nellcor's Statement of Uncontroverted Facts and Conclusions of Law.  |                |
|                   | 78       | Findings of Fact and Conclusions of Law Regarding Masimo's Motion for Preliminary Injunction.   |                |
|                   | 79       | Judgement in <i>Masimo Corp. v. Mallinckrodt Inc.</i> , Court of Appeals for the Federal Circuit No. 01-1038, dated 8/8/01, entered 10/17/01.   |                |
|                   | 80       | Memorandum of Decision and Order Re: 1) Claim Construction; 2) Motion to Strike Masimo's Declarations, entered 2/27/03.   |                |
|                   | 81       | Final Judgment, entered 8/6/04.   |                |
|                   | 82       | Memorandum of Decision and Order Re: Post-Trial Motions, dated 7/12/04, entered 7/14/04.  |                |
|                   | 83       | Memorandum and Points and Authorities in Support of Mallinckrodt's and Nellcor's Motion for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505, dated 8/30/00.   |                |
|                   | 84       | Masimo's Opposition to Defendants' Motion for Summary Judgment for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505, dated 9/21/00.  |                |
|                   | 85       | Reply Memorandum and Points and Authorities in Support of Mallinckrodt's and Nellcor's Motion for Summary Judgment of Invalidity of U.S. Patent No. 5,490,505, dated 10/13/00.  |                |

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|----------------------|-------------|--|----------------|
|                      | 86          | Brief of Plaintiff-Appellant Masimo Corporation, dated 12/8/00.  |                |
|                      | 87          | Non-Confidential Brief of Defendants-Cross Appellants Mallinckrodt inc and Nellcor Puritan Bennett, Inc., dated 1/22/01.   |                |
|                      | 88          | Nonconfidential Reply Brief of Plaintiff-Appellant Masimo Corporation, dated 2/6/01.   |                |
|                      | 89          | Masimo Corp.'s Initial Claim Construction on Its Asserted Patents, dated 6/21/02.  |                |
|                      | 90          | Declaration of Jack Goldberg in Support of Masimo Corp.'s Initial Claim Construction on Its Asserted Patents, dated 6/21/02.   |                |
|                      | 91          | Notice of Errata and Corrected Appendices for Mallinckrodt's and Nellcor's Statement Regarding Disputed Claim Terms of the Asserted Patents, dated 9/12/02 (Final Version).  |                |
|                      | 92          | Expert Declaration of Robert T. Stone Re: Masimo's Patent-In-Suit, dated 7/18/02.  |                |
|                      | 93          | Masimo Corp.'s Opening Memorandum of Claim Construction, dated 9/16/02.  |                |
|                      | 94          | Nellcor's and Mallinckrodt's Opening Claim Construction Brief on the Patent-In-Suit, dated 9/16/02.  |                |
|                      | 95          | Masimo Corp.'s Reply Memorandum on Claim Construction, dated 10/18/02.   |                |
|                      | 96          | Nellcor's and Mallinckrodt's Reply Claim Construction Brief on the Patents-In-Suit, dated 10/18/02.  |                |
|                      | 97          | Nellcor's Trial Brief on Indefiniteness, dated 3/23/04.  |                |
|                      | 98          | Masimo's Trial Brief of Indefiniteness, dated 3/24/04.   |                |
|                      | 99          | Nellcor's Trial Brief re Inequitable Conduct, dated 3/23/04.   |                |
|                      | 100         | Masimo's Trial Brief regarding Inequitable Conduct, dated 3/24/04.   |                |
|                      | 101         | Nellcor's Memorandum of Points and Authorities in Support of: (1) Argument on Bench Trial and (2) Renewed Motion for Judgment as a Matter of Law or Alternatively, a New Trial.  |                |
|                      | 102         | Masimo's Memorandum of Points and Authorities in Opposition to Nellcor's (1) Argument on Bench Trial and (2) Renewed Motion for Judgment as a Matter of Law or for a New Trial.  |                |
|                      | 103         | Memorandum of Points and Authorities in Support of Masimo's Motion for (1) Judgment as a Matter of Law that Nellcor Literally Infringes Claim 17 of the '850 Patent and Claims 16 and 23 of the '222 Patent; (2) A Permanent Injunction; (3) An Accounting for Infringing Sales Occurring in 2004; and (4) Prejudgment Interest. |                |

|  |                 |
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|-------------------|----------|---|----------------|
|                   | 104      | Nelcor's Opposition to Masimo's Motion for Judgment as a Matter of Law and Other Post-Trial Issues.   |                |
|                   | 105      | Brief of Defendant-Appellant Masimo Corporation.  |                |
|                   | 106      | Confidential Brief of Plaintiffs-Cross Appellants Mallinckrodt, inc. and Nelcor Puritan Bennett, Inc.   |                |
|                   | 107      | Letter to Mr. Hornbaly, Clerk of Fed. Cir., indicating that the parties agreed that the Confidential Brief (Ref. No. 106) do not need to remain confidential.   |                |
|                   | 108      | Reply Brief of Defendant-Appellant Masimo Corporation.  |                |
|                   | 109      | Reply Brief of Plaintiffs-Cross Appellants Mallinckrodt, Inc. and Nelcor Puritan Bennett, Inc.  |                |
|                   | 110      | Nelcor's Response to Masimo's First Set of Interrogatories in the Consolidated Case to Mallinckrodt Inc. and Nelcor Puritan Bennett, Inc. (Nos. 1-8), dated 8/23/02.  |                |
|                   | 111      | Nelcor's Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 6/24/03.  |                |
|                   | 112      | Nelcor's Revised and Corrected Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 6/25/03.  |                |
|                   | 113      | Service Manual: Nelcor -100 Pulse Oximeter, 5 button model, Copyright 1993.   |                |
|                   | 114      | J. Corenman Computation Notebook, marked 06/23/82 - 06/22/83.   |                |
|                   | 115      | B. Widrow & S. Stearns, "Adaptive Signal Processing," Prentice-Hall, Copyright 1985.  |                |
|                   | 116      | N-100 Source Code, Copyright 1983-86.   |                |
|                   | 117      | N-100, Source Code, Copyright 1976-87.  |                |
|                   | 118      | "Welcome to the World of Nelcor Pulse Oximetry," Nelcor brochure, in 16 pages, undated.   |                |
|                   | 119      | "Oximax, Sensor Conversion Step," Nelcor brochure, copyright 1997.  |                |
|                   | 120      | "Motion-tolerant SpO <sub>2</sub> ," Philips brochure, undated.   |                |
|                   | 121      | "Introducing New Hand-Held Digital Pulse Oximeter and Sensor with Patented Technologies," Philips, printed from internet site "http://www.oximetersonline.com", 1 page.   |                |
|                   | 122      | "Novamatrix Announces FDA Clearance of New Pulse Oximeter," 2-Mar-2000 Press release in 2 pages.  |                |

|  |                 |
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|----------------------|-------------|---|----------------|
|                      | 123         | "Detax-Ohmeda Announces New Products at the American Society of Anesthesiologist, New Orleans," downloaded from internet in 3 pages.  |                |
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|  | First Named Inventor | Mohamed K. Diab   |
|  | Art Unit             | 3736              |
| (Multiple sheets used when necessary)                    | Examiner             | Eric F. Winakur   |
| SHEET 8 OF 14  | Attorney Docket No.  | MASIMO.7CP1C4     |

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|  | Art Unit             | 3736              |
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| SHEET 14 OF 14   | Attorney Docket No.  | MASIMO.7CP1C4     |

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| Examiner<br>Initials | Cite<br>No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T <sup>1</sup> |
|----------------------|-------------|---|----------------|
|                      | 256         | D.P. Brown, "Evaluation of Pulse Oximeters using Theoretical Models and Experimental Studies," University of Washington, November 24, 1987.   |                |

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T<sup>1</sup> - Place a check mark in this area when an English language Translation is attached.